

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

FILED
JUN 15 2021
Matthew Thibault
CLERK

IN RE CONTEMPT SANCTIONS
AGAINST JOHN KILGALLON, Chief of
Staff for the United States Marshals Service,
DANIEL C. MOSTELLER, United States
Marshal for the District of South Dakota, and
STEPHEN HOUGHTALING, Chief Deputy
United States Marshal for the District of
South Dakota, individually and in their
official capacities,

Defendants.

CASE NO. 21-MC-01-CBK

ORDER

The Court hereby places John Kilgallon, Daniel Mosteller, and Stephen Houghtaling on notice, that they are each charged with criminal contempt of court under 18 U.S.C. § 401.

Pursuant to 42(a)(1)(C) and 18 U.S.C. § 401(1), the essential facts are as follows: On or about Monday, May 10, 2021, John Kilgallon, Daniel Mosteller, and Stephen Houghtaling did, in concert and in conspiracy, misbehave by ordering or allowing a deputy U.S. marshal, one of their subordinates, to remove three criminal defendants—Juan Smith (1:20-CR-10024-CBK), Christopher Plenty Chief (1:16-CR-10038-CBK), and Travis Weasel (1:10-CR-10017-CBK)—from this courthouse, without first notifying or asking permission from this Court and in violation of each defendant's scheduling order, causing said criminal defendants' hearings to be delayed, and thereby obstructing the administration of justice in those defendants' cases.

Alternatively, under 18 U.S.C. § 401(3), on or about Monday, May 10, 2021, John Kilgallon, Daniel Mosteller, and Stephen Houghtaling did, in concert and in conspiracy, resist three of this Court's lawful scheduling orders by ordering or allowing a deputy U.S. marshal, one of their subordinates, to remove three criminal defendants—Juan Smith (1:20-CR-10024-CBK), Christopher Plenty Chief (1:16-CR-10038-CBK), and Travis Weasel (1:10-CR-10017-CBK)—from this courthouse, each of whom was ordered to appear before this Court at the time specified in his respective court order. Though these orders were not directed at the Marshals, the actions of the three defendants interfered with those orders being carried out as specified and, thereby, the above charged contemnors did engage in a conspiracy to obstruct the administration of justice. The contemnors did also, in concert or in conspiracy, refuse to assure the Court that three

other criminal defendants—Rene DeLeon, Jr. (1:21-CR-10008-CBK), Brendon Rodlund (1:20-CR-10041(01)-CBK, and Frank One Feather, Jr. (1:19-CR-10051-CBK)—who were in U.S. Marshall custody and scheduled for hearings on the following day, Tuesday, May 11, 2021, would be brought before the Court for their respective hearings in the courtroom, as ordered.

Now, pursuant to Rule 42(a)(2) the Court hereby requests that the United States Attorney for the District of South Dakota prosecute the contempt offenses outlined above. The Court will allow the U.S. Attorney's office until 5:00 p.m. Central Time this Friday, June 18, 2021, to decide whether or not that office will prosecute; the U.S. Attorney's office should also provide the Court with written notice of its decision by that time.

If the U.S. Attorney declines to prosecute these offenses, the Court will appoint a private attorney. See Fed.R.Crim.P. 42(a)(2).

Finally, pursuant to Rule 42(a)(3), and Rule 46, I will release the defendants on their own recognizance pending trial.


IT IS HEREBY ORDERED that John Kilgallon, Daniel Mosteller, and Stephen Houghtaling are each charged with three counts of criminal contempt of court under 18 U.S.C. § 401.

IT IS FURTHER ORDERED that a trial shall be held at the Federal Courthouse in Aberdeen, SD, 102 Fourth Avenue SE, Suite 408, on Tuesday, September 13th, 2021 at 10:00 a.m.

IT IS FURTHER ORDERED that the date and time of trial are subject to change by the presiding judge, with notice to the defendants and a reasonable time to prepare a defense.

DATED this 15th day of June, 2021.

BY THE COURT:



CHARLES B. KORNMANN
United States District Judge